IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos: 6700 and 9060 of 2004

W.P.No.6700 of 2004

Between:

Sri A.Sai Kumar,
H.No.1/125, Near Railway Station, Kadapa District, Andhra pradesh.

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep.by its Principal Secretary, Industries and Commerce Department,
Secretariat, Hyderabad.
2 M/s Ashok Minerala, rep.by its Director Sri A.Ashok Kumar,
R/o 1/1940, Krishnappa Nagar, Near Railway Station, Kadapa District
Andhra Pradesh.
3 The Government of India, Ministry of Mines, rep.by Under Secretary
315-D wing, Shastry Bhavan, New Delhi.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the 3rd respondent in passing appropriate orders on the Stay application filed by the petitioner on 12-01-2004 along with the Revision application against the Government Memo No.13003/M.III.2/2003-2 dated 29-11-2003 of the 1st respondent as illegal, arbitrary, capricious, unwarranted, violative of established principles of law and unconstitutional.

Counsel for the Petitioner:MR.P.VEERA REDDY

Counsel for the Respondent No.1 : G.P. FOR INDUSTRIES

Counsel for the Respondent No.2 : Smt.N.SHOBHA

Counsel for the Respondent No.3 : GP FOR MINES AND GEOLOGY

WRIT PETITION NO : 9060 of 2004

Between:

M/s Ashok Minerals, rep.by its Director Sri A.Ashok Kumar, S/o A.Ranganadhan,
R/o 1/1940, Krishnappa Nagar, Near Railway Station, Kadapa District.

..... PETITIONER

AND

1 Government of India, rep.by its Secretary, Department of Steel and Mines, New Delhi.
2 The Government of Andhra Pradesh, rep.by its Principal Secretary, Industries and Commerce Department, Secretariat, Hyderabad.
3 A.Sai Kumar, S/o Not Known,
R/o H.No.1/125, Near Railway Station, Kadapa District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or Writ one in the nature of Writ of Mandamus, declaring the inaction of the respondent in not passing appropriate orders on the stay application filed by the Petitioner on 17-12-2003 along with the Revision Application against the Government Memo No.14232/M.III.2/2003-2, dated 29-11-2003 of the Respondent No.2 as illegal, arbitrary, unwarranted violative of established Principles of Law and unconstitutional.

Counsel for the Petitioner:SMT.N.SHOBA

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondent No.2 : G.P. for Industries

Counsel for the Respondent No.3 : Mr.P.Veera Reddy

The Court made the following <u>COMMON ORDER:</u>

With the consent of the both the learned counsel, these two writ petitions are disposed of finally.

Petitioners in these two writ petitions are aggrieved against the action of the respondent-Government of India (3rd respondent in W.P.No.6700 of 2004 and 1st respondent in W.P.No.9060 of 2004), in not passing the orders in the stay applications filed by them on 12-01-2004 and 17-12-2003, respectively.

The case of the petitioners in both these writ petitions is that the respondent-Government of Andhra Pradesh (1st respondent in W.P.No.6700 of 2004 and 2nd respondent in W.P.No.9060 of 2004) had issued a notification on 28-12-1992 for re-grant of lease. In pursuance thereof, both the petitioners, along with other applicants, have filed their respective applications. It is contended that the concerned Assistant Director submitted a report on 28-01-1994 recommending to grant lease in favour of the petitioner in W.P.No.6700 of 2004. Thereafter, notices were issued to the other applicants, as to why the applications for grant of lease filed by them should not be rejected. Since no explanation was filed by them, another notice was issued on 26-4-1999 stating that the 2nd respondent, who is the petitioner in W.P.No.9060 of 2004, has no priority over the application of the petitioner in W.P.No.6700 of 2004, and that therefore, it is liable to be rejected. Thereafter, the lease was decided to grant in favour of the petitioner in W.P.No.6700 of 2004, through memo dated 1-12-2000. Against the said order, the petitioner in W.P.No.9060 of 2004 filed revision before the respondent-Government of India and the same was allowed through an order dated 5-04-2002 and was remitted to the respondent-Government of Andhra Pradesh for fresh consideration on the ground that the petitioner therein was not given adequate opportunity of hearing. Following the said remand order, the

respondent-Government of Andhra Pradesh had issued a telegram dated 8-10-2003 to the petitioners for the purpose of hearing. Ultimately, after taking into consideration the respective claims, the respondent-Government of Andhra Pradesh had passed fresh orders on 29-11-2003, whereunder the application of the petitioner in W.P.No.6700 of 2004 was rejected and decided to grant lease in favour of petitioner in W.P.No.9060 of 2004 in Sy.No.288/24 of Kothapalli village; whereas the application of the petitioner in W.P.No.9060 of 2004 was rejected and decided to grant lease in favour of petitioner in W.P.No.6700 of 2004 in Sy.No.288/17 and 27. Aggrieved thereby, especially as against the refusal of their respective applications for grant of lease, both the petitioners in these two writ petitions filed revisions before the respondent-Government of India on 12-01-2004 and 17-12-2003 respectively. In both the revisions, petitioners moved their respective stay applications and since no orders are passed, they filed these two writ petitions.

This Court while admitting the writ petitions granted interim stay on 07-04-2004 and 11-05-2004 respectively. Subsequently, the respondents filed their respective vacate stay petitions for vacating the said orders.

Learned counsel appearing on behalf of both the petitioners strenuously contended with regard to the entitlement of their leases.

Having considered the submissions made on either side and also from a perusal of the material on record, it is seen that substantive revisions filed by both the petitioners in respect of grant of lease are pending consideration before the respondent-Government of India. It is for the respondent-Government of India to go into the merits of the respective claims of both the petitioners and decide the same in accordance with law.

Having regard to the facts and circumstances of the case, I am not inclined to deal with the questions raised by both the petitioners in these writ petitions. However, it would suffice, in the interest of justice to direct the respondent-Government of India to dispose of both the revisions, after giving adequate opportunity to the parties concerned, at the earliest, in accordance with law.

Under the above circumstances, the writ petitions are disposed of directing the respondent-Government of India, to dispose of the revisions filed by both the petitioners, within a period of two months from the date of receipt of a copy of this order. It is needless to mention that pending disposal thereof, the leases granted in

favour of both the petitioners shall not be given effect to, and the parties are directed to maintain *status quo* existing as on today. No costs.

30-07-2004

GJ

To

1 The Pincipal Secretary, Government of Andhra Pradesh, Industries and Commerce Department, Secretariat, Hyderabad.
2 The Director- Sri A.Ashok Kumar, M/s Ashok Minerala, R/o 1/1940, Krishnappa Nagar, Near Railway Station, Kadapa District, Andhra Pradesh.
3 The Under Secretary, Government of India, Ministry of Mines, 315-D wing, Shastry Bhavan, New Delhi.

4. Two C.Cs. to the Government Pleader for Industries, High Court Buildings,

Hyderabad (OUT)

5. Two C.Cs. to the Government Pleader for Mines and Geology, High Court Buildings, Hyderabad (OUT)

6. Two C.D. copies.